

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GUSTAVO ESTEVANE GUZMAN,

Defendant.

No. 07-CR-4089-DEO

**ORDER
ACCEPTING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On November 28, 2007, a one count Indictment (Docket No. 1) was returned in the above-referenced case.

Count 1 of the Indictment charges that on or about October 25, 2007, in the Northern District Of Iowa, defendant Javier Guzman-Fraire,¹ an alien, was found knowingly and unlawfully in the United States after having been previously removed from the United States on or about December 8, 2004. Defendant did not obtain the express consent of the Attorney General of the United States or his successor, the Secretary of the Department for Homeland Security (under Title 6, United

¹This Court notes that on January 3, 2008, an oral motion was made by the Government to amend the Indictment to the extent that the defendant shall now be known as Gustavo Estevane Guzman. The oral motion was granted by United States Chief Magistrate Judge Paul A. Zoss (See Minutes at Docket No. 16).

States Code, Section 203(3) and (4) and Section 557), to reapply for admission into the United States prior to re-entering the United States on or about June 2007, at or near San Ysidro Port of Entry in California.

This was in violation of Title 8, United States Code, Sections 1326(a).

On March 4, 2008, defendant Gustavo Estevane Guzman appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment. In the Report and Recommendation (Docket No. 28, 03/04/2008), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Gustavo Estevane Guzman's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review to accept defendant Gustavo Estevane Guzman's plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the

report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

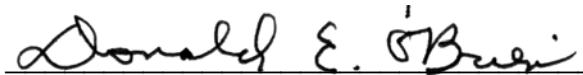
FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 28), and accepts defendant Gustavo Estevane

Guzman's plea of guilty in this case to Count 1 of the Indictment filed on November 28, 2007 (Docket No. 1).

IT IS SO ORDERED this 10th day of April, 2008.

A handwritten signature in cursive script, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa